

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, October 6, 2009.

Board Members Present: *William C. Chase, Jr., Chairman*

Larry Aylor, Vice-Chairman

Sue D. Hansohn

Steven E. Nixon

Brad C. Rosenberger

Tom S. Underwood

Steven L. Walker

Staff Present:

Frank T. Bossio, County Administrator

Roy B. Thorpe, Jr., County Attorney

John C. Egertson, Planning Director

Sam McLearen, Zoning Administrator

Donna Foster, Deputy Clerk

Barry Atchison, Assistant to the Deputy Clerk

CALL TO ORDER

Mr. Chase, Chairman, called the meeting to order at 7:00 pm.

CITIZEN FORUM

Mr. Chase opened the Citizen Forum and called for comments on any item that was not on the agenda.

George Bryson, Jefferson District, stated he had not forgotten about the portrait and was still unaware of its location. He addressed the Board at length regarding his continued concern about the activities of the Culpeper Historical Society and his fruitless efforts to obtain information. He indicated that he had advised his attorney of his concerns and noted he wanted an investigation done.

Mr. Chase informed Mr. Bryson that an inquiry had been made regarding the portrait, but an answer had not been received to date.

Desi Campbell, Stevensburg District, stated she had just attended the meeting on the Corridor 29 study that was being held at the Germanna Tech Center. She reported many citizens had voiced their concerns regarding new roads being designed which would affect their properties. She said VDOT seemed to be more interested in building additional roads than in considering other modes of transportation, and she urged the Board to submit their comments on the Route 29 corridor study.

With no further comments, Mr. Chase closed the Citizen Forum.

APPROVAL OF AGENDA

Mr. Chase called for additions and/or deletions to the agenda.

Mrs. Hansohn moved, seconded by Mr. Aylor, to approve the agenda as presented.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

PUBLIC HEARINGS

THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER ADOPTING A RESOLUTION REQUESTING VDOT TO RESTRICT THROUGH TRUCK TRAFFIC ON ROUTE 600 (YORK ROAD)

John Egertson, Planning Director, displayed a graphic showing Route 600 (York Road) which was being considered in a potential resolution to VDOT asking that the road be posted for "no through truck traffic". He said concerns about the use of York Road by heavy trucks had been voiced to the Planning Office and VDOT; therefore, the Planning Office had undertaken a process required by VDOT which involved: (1) identifying an alternative route, such as remaining on Route 3 before turning directly onto Route 663, Stevensburg Road, rather than using York Road as a cut-through; (2) preparing a resolution that would conform to the format VDOT required; and (3) holding a public hearing on the matter. He reported that the required steps would be completed after a public hearing was held, VDOT Residency Administrator Donald Gore supported the request, and it was ready for the Board's consideration.

Mr. Chase said he had also received several calls about traffic issues on York Road.

Mr. Chase opened the public hearing and called for public comments.

Tim Stegmaier, Stevensburg District, informed the Board he owned a farm located on York Road that probably created 80 percent of the truck traffic and expressed his concern whether he would be able to use the entire portion of that road should it be restricted. He pointed out there were safety issues involved, particularly since trucks could not make the turn at the intersection of York Road and Stevensburg Road because the roads were too narrow and unsafe at that location.

He provided several examples of misuse of York Road by large tractor trailer trucks, farmers needing to use the road for their activities, and people taking a short-cut. He stated that Route 3 was a disaster because vehicles could not pass for long stretches, and the decision to delay improvements was a mistake because many accidents and deaths had occurred at that location.

Mr. Chase stated he was well aware of the safety issues, and most of the complaints he received were regarding the upper portion of York Road. He suggested only the upper portion could be closed to through truck traffic.

Mr. Stegmaier pointed out that it would create a problem posting "no through truck traffic" signs at Route 663 and Route 3, because going to the top of the hill to the stop sign and proceeding through the upper portion where the complaints were received would theoretically be in violation. He said he needed to be able to use all of York Road.

Mr. Nixon asked whether Mr. Stegmaier believed that the road should not be restricted at all. Mr. Stegmaier replied that was correct because of the safety situation. He suggested that if signage became necessary, it should be "restricted except for local traffic" on the two lanes at Route 3.

Mr. Nixon inquired about the number of homes affected on the upper portion of York Road. Mr. Stegmaier estimated there were nine, three of which were new homes.

Mr. Nixon asked whether York Road was paved. Mr. Stegmaier replied that it was paved, but was less than 16 feet across on the lower end and two cars could not pass without leaving the asphalt.

Mr. Nixon questioned whether it was a noise problem rather than a dust problem. Mr. Stegmaier replied that it was really a passing problem. He noted that two cars could pass on the upper end, but could not on the lower end.

Mr. Chase stated he preferred the idea of placing a "local traffic only" sign on each end to determine if that would alleviate the problem. Mr. Stegmaier felt since the sign would apply to cars as well as trucks, it might discourage the road being used as a short cut, but safety issues would remain. He added that every time there was an accident on Route 3, the State Police and Sheriff's Department routed all the traffic down York Road, which alerted more people that York Road was available.

With no further comments, Mr. Chase closed the public hearing.

Mr. Underwood moved, seconded by Mr. Nixon, to table the resolution for 30 days in order to review additional input regarding safety issues.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

NEW PLANNING COMMISSION BUSINESS - PUBLIC HEARING

CASE NO. U-2154-09-1. Request by the Ruth Hamilton Estate to allow the extension of an Emergency Hardship Use Permit for occupancy of an existing mobile home. The property is located off Route 669 in the Stevensburg Magisterial District and contains 2.00 acres. Tax Map/Parcel No. 44/26.

Mr. Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the request to be noncompliant with Article 17 of the Zoning Ordinance based upon the lack of any permanent waste disposal system and the adverse impact upon neighboring properties. He said the Planning Commission was recommending to the Board of Supervisors that the use permit be denied.

Mr. Egertson displayed a tax map that highlighted the property located on the corner of Weeping Willow Lane and Carrico Mills Road. He recalled that the County received an application from Alice Johnson, care of her daughter, Brenda Banks, requesting approval to extend an emergency hardship manufactured home use permit. He noted that Mrs. Johnson had lived on the subject property for most of her life, and previous attempts to find drain field sites or to accommodate the site with an alternative system had been fruitless in the past. There was a home on the property that had fallen into disrepair and became uninhabitable, and Mrs. Banks assisted in obtaining approval to locate the manufactured home on the site. He said the home had been permitted under an emergency hardship basis and that temporary permit ultimately was amended to serve as a temporary dwelling while the permanent home was under renovations, but the permanent home was unable to be repaired and was subsequently demolished. He stated that the trailer was back to its emergency hardship status, but the time for administrative approval had expired.

Mr. Egertson pointed out that the property was zoned RA (Rural Area) and would not permit the permanent location of manufactured homes. He added that the Board had recently approved a pump and haul permit, but that would be valid only for as long as the trailer was legally located on the property. He noted that the only remedies available at this point were to rezone the property to A1 (Agricultural) which would permit permanent occupancy of manufactured housing or to obtain an extension through a public hearing process to keep the trailer there on an emergency hardship basis. He said it was highly unlikely that staff could support rezoning the property since the parcel was completely surrounded by RA and R1 residential zoning, and that was the reason Mrs. Banks was advised to pursue the extension of the emergency hardship status. He added that the concerns with extending the hardship were the lack of water and waste disposal facilities on the property, and the opposition to the trailer by the neighboring property owners.

Mr. Egertson explained the County Code issues so that the Board would be clear on what was being considered: An emergency hardship permit for a manufactured home would be governed under Article 28 of the Zoning Ordinance, and the provisions of Article 28 provided that the Board of Supervisors, through a public hearing process, had the authority to extend the emergency hardship permit for whatever period of time it desired if the proper findings were made. The initial one-year approval for the emergency hardship was administrative, and any extension would have to be made by the Board of Supervisors. Article 28 also required Health Department approval of a water supply and sewage disposal system as a condition of locating the home. The options available were obtaining a pump and permit, which the Board had granted for this property; installing a tank to be periodically pumped and identifying a hauler to pump it on a regular basis; and drilling a well so that the trailer would have running water. Another option would be to leave the property in its current condition with no running water, haul in bottled water, and have a portable toilet, and that option would be agreeable to the Health Department since Mrs. Johnson had lived under those conditions for most of her life. He also explained that in accordance with Article 17, which generally governed all use permits, the Board would be required to find that the use would be compliant with the Comprehensive Plan and it would not have an adverse impact upon property improvements, health or safety in the neighborhood.

Mr. Egertson stated that in accordance with the Planning Commission's recommendation, a resolution denying the request had been included in the Board's meeting materials. He also stated that additional materials had been placed at each Board member's place containing a set of potential conditions and a resolution of approval should the Board decide to take that route. He outlined the following conditions suggested by staff should the request be approved:

1. That the property would have to comply with all Virginia Department of Health regulations; and if improvements were required for compliance, must be completed and operational within six months from the day of approval of the permit;
2. That the permit shall remain valid only for as long as the home was occupied as the full-time residence of Alice Johnson;
3. That the property must remain free of any inoperable vehicles or solid waste in compliance with all County ordinances; and
4. That the home must be in compliance with all applicable building codes and have a valid occupancy permit from the Culpeper County Building Department.

Mr. Egertson presented the request for the Board's consideration.

Mr. Nixon inquired with reference to condition #4, whether the trailer had been brought in on an emergency basis and placed on blocks. Mr. Egertson replied that was correct; the Building Department determined it to be safe for Mrs. Johnson, but it would not meet the Code standards required for an extended period of time should the Board

approve the request. He said the Building Official felt the upgrades would be minor and the trailer would not have to be placed on a permanent foundation.

Mrs. Hansohn stated that she had talked with Charles Shepherd of the Health Department earlier, and he had mentioned an experimental or new type of system. She asked him to discuss that option.

Mr. Shepherd acknowledged that the Health Department was in the process of adopting emergency regulations as a result of last year's General Assembly session that directed the Health Department to adopt emergency regulations to address systems that were beyond the current regulations. He said this was an attempt to level the playing field for engineers and proprietary systems, and to address issues with some local codes in Loudoun County. He stated the emergency regulations had been written, should be adopted by the Board of Health next month and be in place before the current Administration left office. He noted then the Health Department had 270 days to adopt permanent regulations. He explained that the emergency regulations and the permanent regulations were to address some situations where an engineer would believe that they could design a system outside of the prescriptive requirements of the regulations and could make the system work to overcome some of these severe limitations. He pointed out that this was a possibility, but an engineer would have to be located that would be willing to design the system under the current existing soil conditions. He said there would also have to be a backup system which involved a considerable amount of operation and maintenance, as well as a tremendous initial outlay of money with a continuing expense that would cost more than the pump and haul.

Mr. Chase felt that the pump and haul would be sufficient. Mr. Shepherd agreed.

Mrs. Hansohn asked whether the pump and haul could be considered a permanent solution in this case. Mr. Shepherd replied that a permanent pump and haul could be provided if the locality contracted with the Health Commissioner, which Culpeper County had already done, and the County had a local code in place, which it did. He felt that if the Board applied some conditions, the Health Department could make them part of the contract with the County, and those conditions would be made a part of the permit and hopefully provide for the health and safety of Mrs. Johnson and the neighbors.

Mr. Underwood asked whether that option would be an acceptable solution. Mr. Shepherd replied that the requirement for running water in the structure fell under the Building Code and if a variance were issued or the structure grandfathered, the Health Department would function accordingly. He said the Health Department code stipulated that there had to be an approved means of sewage disposal and an approved water supply.

Mr. Nixon inquired about expense involved in acquiring a maintenance contract with a provider for pump and haul. Mr. Shepherd estimated that the lowest cost was \$199 for a pumping and the highest was \$340, but he felt that the price could be negotiated if a long-term contract were obtained.

Mr. Walker asked how long the trailer had been in its current location. Mr. Chase estimated it had been there for two to three years. Mr. Walker asked who supplied the trailer, and Mr. Egertson thought it had been donated.

Mr. Chase asked whether the applicant or a representative was present.

Cherry Vanneman of Culpeper Social Services stated that Mrs. Banks has asked her to speak for the family. She said Mrs. Alice Johnson respectfully asked the Board to extend the emergency hardship permit to allow work to install a septic system, which would be the pump and haul system. The estimate on the well was \$3,500 from Riner Well Drilling of Brandy Station. The pump and haul permit had been approved by the County, but the family was awaiting the disposition by the Board before purchasing the pump and haul permit from the Health Department. An engineer would design the pump and haul system, and P. W. Stilwell Plumbing and Heating would provide the pump and haul system as designed by the engineer. The family had two payment sources to cover the costs of the well, the pump and haul permit from the Health Department, and the pump and haul system.

Ms. Vanneman stated she met Mrs. Johnson in 1982, and they worked together. Mrs. Johnson worked at Culpeper Human Services from November 9, 1982 until her retirement as a companion provider to the elderly and disabled citizens of Culpeper County, including some adult protective service cases. Three of her daughters followed in her footsteps, providing the same services, and one daughter, Brenda Banks, had continued in that same position for 19 years. She said that sometime ago, she, Ms. Johnson, and Ms. Banks worked with Rapidan Better Housing to provide bathroom and water facilities into the home, but the application process could not be completed in a timely fashion to coincide with Federal funding. She stated that Mrs. Johnson, age 77, could not be present due to her health; she leaves her home primarily for doctors' appointments, and she wanted to express her gratitude to each of the Board members for their diligent efforts on her behalf.

Ms. Vanneman asked on behalf of Mrs. Johnson and her family for the Board's guidance and support to provide an extension on the emergency hardship permit.

Mr. Nixon asked Ms. Vanneman if she had a time line on how long it would take to make the necessary repairs. Ms. Vanneman stated that she did not know, but the work would be done as quickly as possible.

Mr. Walker asked whether the six months contained in the staff recommendations were reasonable. Ms. Vanneman replied that she hoped that six months would be sufficient.

Mr. Nixon pointed out that the condition stipulating the permit would remain valid only for as long as the home was occupied as Mrs. Johnson's full-time residence would mean that the family would lose its investment in the renovations. Mr. Egertson stated that Ms. Banks had noted that concern at the Planning Commission meeting, but this would be the first time that a pump and haul would be used for a residential application; it had only been used for commercial uses and a church in the past.

Mr. Chase opened the public hearing and called for public comment.

Larry Checca, representing the Virginia Manufactured and Modular Housing Association, stated his organization was one of the sources for the funds to make the improvements to the land.

Gardiner Mulford, Stevensburg District, expressed appreciation to the Board for granting the initial hardship exemption to Mrs. Johnson. He suggested that a temporary system would be more cost effective for the family, and it might be a better choice to grant a waiver to Mrs. Johnson so she could live there in peace and happiness for the rest of her days. He said it would be inexpensive and temporary and would be more agreeable to the neighborhood if the trailer were removed at some point.

Reese Washington, Stevensburg District, stated he was the Pastor of Shiloh Baptist Church in Brandy Station where the Johnson family worshiped. He read a letter on behalf of the Johnson family that provided some history of the family. He said some people had been identified who were willing to provide money for a pump and haul to be installed on Mrs. Johnson's property. He noted that the mobile home was not just an object and it did not matter what it looked like from the outside because the treasure was on the inside.

Sidney Williams, Cedar Mountain District, stated he was the Pastor of Mt. Olivet Baptist Church on White Shop Road and was present to give his support for an extension of the permit. He reported that members of the church were willing to support Mrs. Johnson financially and in any other way to meet the criteria to keep and maintain her home.

Kurt Christensen, Stevensburg District, stated there were still many outhouses in the County and a lot of great people were raised without running water and he felt the County should allow outhouses within the community. He said the Planning Commission acted without compassion and hoped that the Board of Supervisors was aware of how the members voted.

Beverly Tanner reminded the Board that everyone was responsible for others and quoted from Matthew 25:45 to indicate whatever was done to "the least of these", was done for the Father.

Geraldine Schneider, Stevensburg District, stated she was a neighbor of Mrs. Johnson and supported any action that would allow her to remain in her home.

Richard Smith, Salem District, expressed concern that the Planning Commission would make someone homeless just because of the lack of running water and flushing toilet. He said many in attendance probably grew up without those facilities and they survived, and he suggested that the trailer be grandfathered.

Clarice Brown stated she was a relative of Mrs. Johnson and had visited the family property for over 40 years. She said Mrs. Johnson's children were raised there without suffering any health problems from the lack of a bathroom or running water. She pointed out that the people who bought the land from the original Johnson property knew there were no sewer facilities so it was no surprise to them. She felt that the dwelling unit should be grandfathered and exempt to allow Mrs. Johnson to live there in peace.

Charles Ferguson, President of the Local Chapter of the NAACP, spoke in support of Mrs. Johnson and her family. He felt that individuals should not be allowed to interfere with the life styles of others and the way they were raised. He said he appreciated the show of support demonstrated by those in attendance.

Emma Richards, former Town Council member, stated she had known Mrs. Johnson for many years and only her health would have prevented her from attending the hearing. She knew that Mrs. Johnson would be very grateful for the support and asked that she be allowed to remain in her home.

George Bryson, Jefferson District, hoped that the Board would make an allowance and permit Mrs. Johnson to remain on her property. He said there were many in the community who grew up and survived without running water and sewer facilities.

With no further comments, Mr. Chase closed the public hearing.

Mr. Chase stated that as Chairman, he regretted he could not make a motion on behalf of Mrs. Johnson whom he had known for close to 10 years. He said he believed that ordinances could be waived or exempted when necessary to make to make them more humane. He felt reassured that Mrs. Johnson's living conditions would be made more comfortable as demonstrated by the tremendous turnout of the community on her behalf.

Mrs. Hansohn stated it was wonderful to see the community turnout and to hear the support that had been offered to Mrs. Johnson.

Mrs. Hansohn moved, seconded by Mr. Underwood, to approve the emergency hardship permit with the conditions as stated.

Mr. Aylor spoke in support of the Planning Commission and its actions. He stated that the Commission members volunteered their time and effort in studying the information at hand and applying the County's rules and regulations prior to making recommendations to the Board of Supervisors, and he was offended by the criticism of the Commission for carrying out its responsibilities. He pointed out that only the Board had the authority to act on recommendations from the Planning Commission. He stated that in the 30 days since the Planning Commission meeting, many friends and others had come forward with various means of support to bring the applicant's situation into compliance, but it had not been in compliance at the time the Planning Commission considered the case. He said he would support the motion because the situation had changed and there was now a source of income to improve the applicant's living conditions.

Mr. Rosenberger thanked Mr. Aylor for his comments. He said that he would hope everyone now knew that the Planning Commission made the only decision that it could have in enforcing the ordinances of Culpeper County in a fair and equitable manner. He stressed that the Commission did not have the authority to grant waivers which the Board of Supervisors had. He stated he would support the motion on the floor, but had nothing changed, he would have been very hesitant in supporting anything other than the Planning Commission's recommendation because the Commission made the right recommendation with the information it had at the time.

Mrs. Hansohn clarified her motion to make clear that the provision of a pump and haul and a well would be required. Mr. Underwood, as the person who seconded the motion, approved the clarification.

Mr. Walker asked whether the motion included all of the conditions as recommended by staff. He was assured that it did.

Mr. Underwood stated he would support the motion on the floor, but wanted it clear that he would have supported leaving the conditions as they were. He agreed that people should not interfere with the lifestyles of others based on the culture in which they were raised. He said he also supported a review of the ordinances to determine whether there was a way to include those living in similar conditions could be brought into compliance with the ordinances. He also agreed with Mr. Aylor and Mr. Rosenberger that the Planning Commission had carried out its responsibilities, but if the Board of Supervisors felt there were flaws in the ordinances, they should ensure that they complied with the needs of the County's citizens.

Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

Mr. Chase recessed the meeting at 8:20 p.m. to allow those who wished to leave to do so. He called the meeting back to order at 8:30 p.m.

CASE NO. U-2155-09-1. Request by Craig and Susan Malloy for approval of a use permit to allow a manufactured home for farm tenant use. The property is located on Route 685 in the Stevensburg Magisterial District and contains 30 acres. Tax Map/Parcel No. 32K(1)/13.

Mr. Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the request to be noncompliant with Articles 17 and 28 of the Zoning Ordinance based upon the lack of compliance with the Comprehensive Plan, insufficient evidence of farm tenant income requirements were met, and the adverse impact upon neighboring properties. He said the Planning Commission was recommending to the Board of Supervisors that the use permit be denied.

Mr. Egertson displayed a copy of a tax map highlighting the location of the property in the Arlington Farms Subdivision. He explained that the dwelling under consideration for a use permit was a manufactured home which was originally approved in 2001 for the purpose of temporary use by a family member, and represented the fourth dwelling unit on the 30-acre property. He explained that Article 28 required that 80 percent of a tenant's income be derived from the farm, and there was a lack of documentation to that effect. He called attention to Article 17 and its requirement for compliance with the Comprehensive Plan and questioned the need for four dwelling units on a 30-acre parcel for agricultural use. He pointed out that the permit approved in 2001 had expired, and the unit had not been removed to date despite legal action by the Zoning Administrator and its noncompliance with both Health Department and Building Department regulations during the time it had been there. He said based on all of these factors, it was the staff and the Planning Commission recommendation to deny the request for the permit, and it was ready for the Board's consideration.

Mr. Egertson noted there were two letters placed at the Board's places, in addition to those received in their packages, from neighboring property owners in opposition to the request. Mr. Walker asked whether the Planning Commission was aware of the two additional letters in opposition. Mr. Egertson replied the letters were new, but the Planning Commission was aware that others were in opposition.

Mr. Walker asked whether the additional information required regarding income had been requested. Mr. Egertson replied that staff and the Planning Commission were seeking additional documentation about the lease as well as proof of income in addition to what was provided. He said a copy of the staff report was given to the applicant that indicated the type of documentation needed well before the Planning Commission meeting.

Craig Malloy, applicant, informed the Board that he wished to withdraw his application.

No action was required.

CASE NO. U-2156-09-1. Request by John A. Covington and Donald C. Wells, Jr., for approval of a use permit to allow a Licensed Commercial Shooting Preserve. The property is located on Route 663 in the Stevensburg Magisterial District and contains 209.8 acres. Tax Map/Parcel No. 53/6.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the request to be consistent with Article 17 of the Zoning Ordinance with the following conditions:

1. This use permit shall be valid for a period of ten years, and must be properly licensed by the Virginia Department of Game and Inland Fisheries at all times.
2. The commercial shooting preserve shall be limited to hunting with the use of shotguns and bird shot only, no larger than number five shot for upland game.
3. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m. daily. When shooting waterfowl, hours must comply with State game regulations.
4. The operators of the preserve shall maintain a minimum of \$1 million of liability insurance at all times.
5. No shooting activity on the site shall be permitted within 200 feet of any property line, and these areas must be clearly marked. This provision may be waived with the written permission of the adjoining property owner.

Mr. McLearen said the Planning Commission was recommending to the Board of Supervisors that the use permit be approved with the above referenced conditions.

Mr. Egertson displayed a tax map indicating the location of the property at Stevensburg where the applicant was requesting approval of a use permit to operate a public shooting preserve. He provided the following background information:

Dr. John Covington is co-owner of Rose Hill Farm at Stevensburg that contains 209.8 acres, and the farm house on the property is an historic structure. The property is currently zoned Agricultural and has been placed in a conservation easement to ensure its protection. The property is also enrolled in an Agricultural and Forestal District.

Last year, operating with a permit from the Virginia Department of Game and Inland Fisheries (VDGIF), a private shooting preserve was operated on the

property and the applicant now wishes to operate a commercial shooting preserve. The applicant has filed the appropriate State permit request and is now seeking the required local approval to execute that State permit.

As a matter of general information, the VDGIF is the agency responsible for licensing shooting preserves. Two classes of licenses are available: Private and public/commercial. The VDGIF license carries with it several requirements which are important to note. These requirements are conditions of the State license so they need not be repeated on any local use permit conditions. There is a 100-acre minimum parcel size; signs must be posted around the perimeter of the property; and the season for operating the shooting preserve is limited to September 1 through April 30 each year. In addition, State law does prohibit any shooting within 100 yards of any State maintained road.

Mr. Egertson stated that the issues staff believed should be addressed through the use permit conditions would include limiting the hours of operation, requiring buffers, and requiring insurance. He noted the property bordered a quarry operation on one side and industrial warehouse, and also some agricultural properties and residences, but it was remote enough and sufficiently large that staff believed it could safely accommodate the shooting preserve. He said no significant planning issues or concerns had been identified to suggest the use would be inappropriate; and based on the findings by staff and the Planning Commission, it was recommended for approval with the set of conditions listed earlier.

Mr. Chase asked whether the applicant would like to speak, but neither the applicant nor his representative was present.

Mr. Chase stated that one of the neighbors had requested no shooting activity be allowed within 300 feet versus 200 feet of any property line, and he thought the applicant had agreed. He did not believe the Board could proceed without the applicant being present to answer questions.

Mr. Egertson stated that it would be appropriate for the Board to postpone the case until the applicant could be present, but if that were the only concern voiced, the Board could proceed and place the conditions it felt were appropriate. He noted that he had visited the property and talked with the applicant, and there was sufficient room for him to accomplish what he wanted to accomplish even with a 300-foot buffer in place as opposed to 200 feet.

Mr. Aylor inquired where the 200 feet had come from because he was concerned that distance may not be sufficient. Mr. Egertson replied that the figure was fairly arbitrary after visiting the property and talking with the applicant, and when staff had suggested 300 feet, the applicant asked the 200 feet be used. He said that the Planning Commission was comfortable with 200 foot buffers from the property line and 300 feet from any State road.

Mr. Aylor pointed out that 300 feet equated to less than 67 yards and that would be a concern if certain types of weapons other than a shotgun were used. He said he would support a motion to postpone the case until the applicant could be present.

Mr. Nixon suggested that if the Board wished to make 300 feet a condition, the request could move forward for consideration.

Mrs. Hansohn stated she would prefer to have the applicant present because it was an important case, and there were several concerns to be addressed.

Mr. Chase stated he would open the public hearing for comment since there were individuals who wished to speak.

Gardiner Mulford, Stevensburg District, spoke in support of the request because it would allow the property owner to generate income from a nonfarming agricultural property that had been restored. He said he would also support granting Mrs. Stegmaier the 300 feet off her driveway, as well as along the State roads.

Tim Stegmaier, Stevensburg District, stated that while he and his wife were in support in general with the motion, he pointed out that Alvere Road was incorrect on the map being displayed. He noted that his property was directly adjacent on the lower property line and Alvere Road actually ran directly along the property line, but the map showed Alvere Road as much as 150 or 200 feet away from the property line. He indicated that the 200 feet from a neighboring property was actually in the State regulations, and 300 feet were required from a public road. He said his wife was concerned regarding the 200-foot setback and would like the setback from their road to be 300 feet, the same setback as on a public road, and he believed that Dr. Covington was agreeable. He questioned the request for a Sunday permit for shooting and asked for clarification regarding the requirement that Sunday shooting was only permissible in a county with 54,000 to 54,999 residents.

Mr. Egertson replied that the State Code was written in such a manner that a county that qualified under those population sizes would outlaw any shooting on Sunday, and all other counties were permitted to shoot on Sunday. He said it was clearly one of those State laws that was targeted to apply to one county only, and it would not cover Culpeper County. The licensed shooting preserve could shoot on Sunday unless a condition were placed to prohibit Sunday shooting.

Mrs. Hansohn felt that shooting on Sunday might be an issue with the church located in that area. Mr. Aylor suggested that the hours on Sunday could be changed.

Mr. Stegmaier expressed his concern that the shooting preserve may adversely affect the value of his property and suggested that the permit be for a shorter period of time than 10 years. He noted that fog was a continual problem in that area during the shooting period between now and spring, and the hunters may lose their bearings. He also noted that the hours for shooting should be given consideration. He said he and his wife would support the request but would like to have his concerns addressed to ensure the issues regarding the fog, hours, Sunday shooting, length of time, and 300 feet or more setback from the property line would not adversely affect the residents in the area.

Mrs. Stegmaier stated she would like to make it perfectly clear that she did not support the request even though Mr. Stegmaier took the liberty of including her in his support. She said that she supported the preserve at one time, but she was concerned about hunters disturbing a small area near a creek she frequently visited that crossed the property line between the Covington property and theirs. She also took exception to the hours for shooting, especially because of the fog situation, and the shooting on Sunday.

With no further comments, Mr. Close closed the public hearing.

Mr. Aylor moved, seconded by Mr. Walker, to postpone the request for 30 days in order for the applicant to be present to address the issues raised.

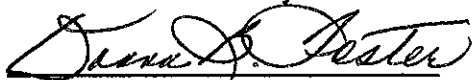
Mr. Chase called for voice vote.

Ayes - Aylor, Chase, Hansohn, Nixon, Rosenberger, Underwood, Walker

Motion carried 7 to 0.

ADJOURNMENT

On motion by Mrs. Hansohn, the meeting was adjourned at 8:52 p.m.

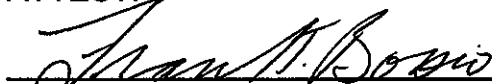


Donna B. Foster, MMC
Deputy Clerk



William C. Chase, Jr. Chairman

ATTEST:



Frank T. Bossio
Clerk to the Board

Approved: November 4, 2009